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NOTE: CHANGES HAVE BEEN
MADE TO THIS DOCUMENT

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

STARBUZZ TOBACCO, INC., a
California corporation,

Plaintiff,

vs.

PHILIP MELNICK, an individual,

Defendant.

Case No.: 8:15-cv-00224-DOC (RNBx)
Hon. Judge David O. Carter

**JUDGMENT AND PERMANENT
INJUNCTION**

This matter is before the Court upon Plaintiff's Motion for Entry of Default Judgement Against Defendant Philip Melnick ("Defendant") pursuant to Federal Rule of Civil Procedure 55. The Court, having considered the Clerk's Entry of Default against Defendant on March 27, 2015, Starbuzz Tobacco, Inc.'s

1 (“Plaintiff”) Notice of Motion and Motion for Entry of Default Judgment and
2 supporting papers, any and all moving and responding papers filed by the parties
3 and having heard the arguments of counsel, and with good cause appearing,

4 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that:

5 1. This Court has jurisdiction over the parties to this Judgment and has
6 jurisdiction over the subject matter hereof pursuant to 15 U.S.C. § 1121.

7 2. Defendant infringed upon Plaintiff’s federal trademark rights under 15
8 U.S.C. §1114, as set forth in Plaintiff’s First Claim for Relief.

9 3. Defendant infringed upon Plaintiff’s federal trademark rights under 15
10 U.S.C. §1125(a), as set forth in Plaintiff’s Second Claim for Relief.

11 4. Defendant committed unfair competition in violation of California
12 Business & Professions Code §17200 *et seq.*, as set forth in Plaintiff’s Third Claim
13 for Relief.

14 5. Defendant infringed upon Plaintiff’s common law trademark rights
15 and committed common law unfair competition, as set forth in Plaintiff’s Fourth
16 Claim for Relief.

17 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that
18 Defendant is directed to relinquish and deliver to Plaintiff for destruction or other
19 disposition, within ten business (10) days of the date of this order, each and all of
20 the following to the extent in the possession, custody or control of Defendant:
21

22 1. All labels, signs, prints, packages, wrappers, receptacles, and
23 advertisements in Defendant’s possession, custody, or control that bear the
24 “MYST” trademark.

25 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that
26 Defendant, and his agents, servants, employees, attorneys, and all persons in active
27 concert and participation with him who receive actual notice of this Judgment by
28 personal service or otherwise, are permanently enjoined from:

1 1. Offering, selling, marketing or distributing through the Internet or
2 otherwise, any articles or items bearing the “MYST” mark, in connection with the
3 offer, sale, or provision of any tobacco, tobacco-related products, or electronic
4 cigarettes;

5 2. Offering, selling, marketing or distributing through the Internet or
6 otherwise, any articles or items bearing “BLUE MIST”, “CITRUS MIST”,
7 “HAWAIIAN MIST”, “TROPICAL MIST”, or “PEACH MIST” trademarks, or
8 any marks confusingly similar thereto, in connection with the offer, sale, or
9 provision of any tobacco, tobacco-related products, or electronic cigarettes;

10 3. Owning and operating the website accessed through the
11 www.mystcigs.com, or any other website containing or consisting of the “MYST”
12 mark;

13 4. Owning and operating the mystcigs.com, mystcig.com and
14 mystcigarette.com domain names, or any other domain name containing or
15 consisting of the “MYST” mark (the “Infringing Domains”); and

16 5. Assisting, aiding, or abetting any person or business entity in
17 engaging in or performing any of the aforementioned acts.

18 **IT IS FURTHER ORDERED** that Defendant shall transfer the Infringing
19 Domains to Starbuzz, and shall execute any and all documents and take any actions
20 necessary to effectuate such transfers within ten (10) business days of the date of
21 this order.

22 **IT IS FURTHER ORDERED** that if Defendant fails to transfer the
23 Infringing Domains to Starbuzz within ten (10) business days of the date this order,
24 the registrar for the Domain Names, Godaddy.com, Inc., shall transfer the
25 Infringing Domains to Starbuzz.
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1 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that
2 Plaintiff shall recover from Defendant, attorneys' fees in the amount of \$6,716.00
3 and costs in the amount of \$421.00, for the total amount of \$7,137.00.

4 **IT IS FURTHER ORDERED** that the Permanent Injunction shall become
5 effective as of its date of entry by the Court.

6 **IT IS FURTHER ORDERED** that the Court shall retain jurisdiction of this
7 action to entertain such further proceedings and to enter such further orders as may
8 be necessary or appropriate to implement and enforce the provisions of this
9 Permanent Injunction.

10 **IT IS SO ORDERED.**

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13 DATED: July 31, 2015



Honorable David O. Carter
United States District Court Judge